UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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IN RE: :
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OPENAI, INC.,   :   25-md-3143 (SHS) (OTW)
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                                                                :
                                                                :   **ORDER**
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  ONA T. WANG, **United States Magistrate Judge**:

  The Court is in receipt of the parties' responses to ECF 254, filed at ECF Nos. 280 and

286, regarding OpenAI's use of the AEO designation.

  News Plaintiffs' proposal—that they be permitted to show their clients' decisionmakers

all OpenAI AEO-designated documents except for: (1) enterprise pricing for ChatGPT services;

(2) the technical operation of Defendants' LLMs; and (3) third-party customers' contracts and

negotiations, (*see* ECF 280)—is not workable for a number of reasons. (ECF 280). First, it

presumes that <u>all</u> OpenAI's AEO documents may be shown to the News Plaintiffs' clients' key

decisionmakers, which News Plaintiffs have not shown is necessary under the circumstances.

Second, the proposal gives News Plaintiffs the sole discretion to choose the documents that can

or cannot be shown and does not provide OpenAI any avenue by which to challenge disclosures

of any particular document(s) before they are disclosed.

  OpenAI's multi-step proposal is also unworkable; it proposes a multi-step process

where: (1) News Plaintiffs may identify certain documents that discuss one of the News

Plaintiffs; (2) OpenAI would re-review those documents; and (3) OpenAI would allow News

Plaintiffs to show such documents to their clients' key decisionmakers if it does not fall into any

of the following categories: (a) technical documents concerning OpenAI's models and products;

(b) financial documents; and (c) documents regarding OpenAI's business strategy for customer

contracts and pricing. (ECF 286). The categories of "exempt" documents are too broad,

particularly given the Court's concern with OpenAI's overuse of the AEO designation, and

OpenAI has put forth no basis to support limiting the review of such documents to those that

explicitly refer to a News Plaintiffs' organization. For example, some of the AEO documents

already presented to the Court under seal do not mention particular Plaintiffs at all, but also do

not seem to merit an AEO designation, (*see*, *e.g.*, 23-CV-11195, ECF Nos. 204-10, 228-5, 313-7,

500-9), and these documents would be completely exempt from review or disclosure under

OpenAI's current multi-step proposal. Moreover, requiring News Plaintiffs to ask permission for

every single document in an overly limited population is both overly restrictive and

unnecessary, and ultimately unproductive. Plaintiffs may as well designate or "seek permission"

for "every document that references each Plaintiff" and shift the re-review back to OpenAI,

which would likely lead to a refusal by OpenAI to again review its AEO designations.

News Plaintiffs are directed to file a letter on the docket by **July 10, 2025,** responding to

OpenAI's latest proposal. News Plaintiffs' letter should provide examples of AEO documents

that do not specifically mention their organizations and explain why they should be able to

show such documents to their clients.

OpenAI is directed to file a letter by **July 10, 2025,** responding to News Plaintiffs' latest

proposal. OpenAI's letter should also provide examples of documents that fall outside of News

Plaintiffs' 3 exempt categories and explain why these documents should not be shown to News

Plaintiffs' clients.

The parties are directed to continue meeting and conferring on OpenAI's AEO designation and, if the parties cannot come to an agreement, file final proposals by **July 11, 2025.**

   SO ORDERED.

Dated: July 8, 2025
   New York, New York

                   s/ Ona T. Wang
                   Ona T. Wang
                   United States Magistrate Judge